

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1001 be amended to read as follows:

1       Page 295, delete lines 25 through 42, begin a new paragraph and  
2       insert:

3       "SECTION 291. IC 6-2.5-2-2 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 2.

5       (a) **This subsection applies after March 31, 2008, and before**  
6       **January 1, 2010.** The state gross retail tax is measured by the gross  
7       retail income received by a retail merchant in a retail unitary  
8       transaction and is imposed at the following rates:

9	STATE	GROSS RETAIL INCOME
10	GROSS	FROM THE
11	RETAIL	RETAIL UNITARY
12	TAX	TRANSACTION
13	\$ 0	less than \$0.08
14	\$ 0.01	at least \$ 0.08 but less than \$0.21
15	\$ 0.02	at least \$ 0.21 but less than \$0.36
16	\$ 0.03	at least \$ 0.36 but less than \$0.51
17	\$ 0.04	at least \$ 0.51 but less than \$0.64
18	\$ 0.05	at least \$ 0.64 but less than \$0.79
19	\$ 0.06	at least \$ 0.79 but less than \$0.93
20	\$ 0.07	at least \$ 0.93 but less than \$1.07

21       **On a retail unitary transaction in which the gross retail income**  
22       **received by the retail merchant is one dollar and seven cents**  
23       **(\$1.07) or more, the state gross retail tax is seven percent (7%) of**  
24       **that gross retail income.**

25       (b) **This subsection applies after December 31, 2009.** The state  
26       gross retail tax is measured by the gross retail income received by a  
27       retail merchant in a retail unitary transaction and is imposed at the  
28       following rates:

29	STATE	GROSS RETAIL INCOME
30	GROSS	FROM THE
31	RETAIL	RETAIL UNITARY

TAX	TRANSACTION
\$ 0	less than \$0.09
\$ 0.01	at least \$ 0.09 but less than \$0.25
\$ 0.02	at least \$ 0.25 but less than \$0.42
\$ 0.03	at least \$ 0.42 but less than \$0.59
\$ 0.04	at least \$ 0.59 but less than \$0.75
\$ 0.05	at least \$ 0.75 but less than \$0.92
\$ 0.06	at least \$ 0.92 but less than \$1.09

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and nine cents (\$1.09) or more, the state gross retail tax is six percent (6%) of that gross retail income.

~~(b)~~ (c) If the tax computed under subsection (a) **or (b)** results in a fraction of one-half cent (\$0.005) or more, the amount of the tax shall be rounded to the next additional cent.

SECTION 292. IC 6-2.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 7. **This subsection applies after March 31, 2008, and before January 1, 2010.** Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

- (1) ~~six~~ **seven** percent ~~(6%)~~; (7%); multiplied by
- (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax ~~he~~ **the retail merchant** actually collects.

**(b) This subsection applies after December 31, 2009.** Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

- (1) six percent (6%); multiplied by
- (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax he actually collects.

SECTION 293. IC 6-2.5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 8.

(a) For purposes of determining the amount of state gross retail and use taxes which ~~he~~ **a retail merchant** must remit under section 7 of this chapter, ~~a~~ **the** retail merchant may exclude from ~~his~~ **the retail merchant's** gross retail income from retail transactions made during a particular reporting period, an amount equal to the product of:

- (1) the amount of that gross retail income; multiplied by
- (2) the retail merchant's "income exclusion ratio" for the tax year which contains the reporting period.

(b) A retail merchant's "income exclusion ratio" for a particular tax

year equals a fraction, the numerator of which is the retail merchant's estimated total gross retail income for the tax year from unitary retail transactions which produce gross retail income of less than, **after March 31, 2008, and before January 1, 2010, eight cents (\$0.08) and after December 31, 2009**, nine cents (\$0.09) each, and the denominator of which is the retail merchant's estimated total gross retail income for the tax year from all retail transactions.

(c) In order to minimize a retail merchant's recordkeeping requirements, the department shall prescribe a procedure for determining the retail merchant's income exclusion ratio for a tax year, based on a period of time, not to exceed fifteen (15) consecutive days, during the first quarter of the retail merchant's tax year. However, the period of time may be changed if the change is requested by the retail merchant because of ~~his~~ **the retail merchant's** peculiar accounting procedures or marketing factors. In addition, if a retail merchant has multiple sales locations or diverse types of sales, the department shall permit the retail merchant to determine the ratio on the basis of a representative sampling of the locations and types of sales.

SECTION 294. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) **This subsection applies after March 31, 2008, and before January 1, 2010. The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:**

(1) **Seventy-three hundredths percent (0.73%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).**

(2) **Fifty-three hundredths percent (0.53%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:**

(A) **was greater than sixty thousand dollars (\$60,000); and**

(B) **did not exceed six hundred thousand dollars (\$600,000).**

(3) **Twenty-six hundredths percent (0.26%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).**

(c) **This subsection applies after December 31, 2009.** The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) Eighty-three hundredths percent (0.83%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) Six-tenths percent (0.6%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) Three-tenths percent (0.3%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

~~(c)~~ (d) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 295. IC 6-2.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008 (RETROACTIVE)]: Sec. 3.

(a) **This subsection applies after March 31, 2008, and before January 1, 2010. With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:**

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) seven percent (7%).

**The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.**

(b) **This subsection applies after March 31, 2008, and before January 1, 2010. With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:**

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) seven percent (7%).

(c) **This subsection applies after December 31, 2009.** Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is

1 exempt from taxation under IC 6-2.5-5.

2 With respect to the sale of gasoline which is dispensed from a metered  
3 pump, a retail merchant shall collect, for each unit of gasoline sold,  
4 state gross retail tax in an amount equal to the product, rounded to the  
5 nearest one-tenth of one cent (\$0.001), of:

- 6 (1) the price per unit before the addition of state and federal taxes;  
7 multiplied by
- 8 (2) six percent (6%).

9 The retail merchant shall collect the state gross retail tax prescribed in  
10 this section even if the transaction is exempt from taxation under  
11 IC 6-2.5-5.

12 ~~(b)~~ **(d) This subsection applies after December 31, 2009.** With  
13 respect to the sale of special fuel or kerosene which is dispensed from  
14 a metered pump, unless the purchaser provides an exemption certificate  
15 in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for  
16 each unit of special fuel or kerosene sold, state gross retail tax in an  
17 amount equal to the product, rounded to the nearest one-tenth of one  
18 cent (\$0.001), of:

- 19 (1) the price per unit before the addition of state and federal taxes;  
20 multiplied by
- 21 (2) six percent (6%).

22 Unless the exemption certificate is provided, the retail merchant shall  
23 collect the state gross retail tax prescribed in this section even if the  
24 transaction is exempt from taxation under IC 6-2.5-5.

25 SECTION 296. IC 6-2.5-7-5, AS AMENDED BY P.L.182-2007,  
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 APRIL 1, 2008 (RETROACTIVE)]: Sec. 5. (a) Each retail merchant  
28 who dispenses gasoline or special fuel from a metered pump shall, in  
29 the manner prescribed in IC 6-2.5-6, report to the department the  
30 following information:

- 31 (1) The total number of gallons of gasoline sold from a metered  
32 pump during the period covered by the report.
- 33 (2) The total amount of money received from the sale of gasoline  
34 described in subdivision (1) during the period covered by the  
35 report.
- 36 (3) That portion of the amount described in subdivision (2) which  
37 represents state and federal taxes imposed under this article,  
38 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.
- 39 (4) The total number of gallons of special fuel sold from a  
40 metered pump during the period covered by the report.
- 41 (5) The total amount of money received from the sale of special  
42 fuel during the period covered by the report.
- 43 (6) That portion of the amount described in subdivision (5) that  
44 represents state and federal taxes imposed under this article,  
45 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.
- 46 (7) The total number of gallons of E85 sold from a metered pump  
47 during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals, **after March 31, 2008, and before January 1, 2010, six and fifty-four hundredths percent (6.54%) and after December 31, 2009**, five and sixty-six hundredths percent (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which ~~he~~ **the merchant** has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents (\$0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice."

- 1 Delete pages 296 through 299.
- 2 Page 300, delete lines 1 through 6.
- 3 Page 302, delete lines 2 through 22, begin a new paragraph and
- 4 insert:
- 5 "SECTION 297. IC 6-2.5-10-1, AS AMENDED BY P.L.234-2007,
- 6 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 MAY 1, 2008]: Sec. 1. (a) The department shall account for all state
- 8 gross retail and use taxes that it collects.
- 9 (b) The department shall deposit those collections in the following
- 10 manner:
- 11 ~~(1) Fifty percent (50%) of the collections shall be paid into the~~
- 12 ~~property tax replacement fund established under IC 6-1.1-21.~~
- 13 **(2) (1) Forty-nine Ninety-nine and sixty-seven one hundred**
- 14 **seventy-eight thousandths percent (49.067%) (99.178%) of the**
- 15 **collections shall be paid into the state general fund.**
- 16 ~~(3) (2) Sixty-seven hundredths of one percent (0.67%) of the~~
- 17 ~~collections shall be paid into the public mass transportation~~
- 18 ~~fund established by IC 8-23-3-8. However, after January 31,~~
- 19 ~~2010, seventy-six hundredths of one percent (0.76%) of the~~
- 20 ~~collections shall be paid into the public mass transportation fund~~
- 21 ~~established by IC 8-23-3-8.~~
- 22 ~~(4) (3) Twenty-nine thousandths of one percent (0.029%) of~~
- 23 ~~the collections shall be deposited into the industrial rail~~
- 24 ~~service fund established under IC 8-3-1.7-2. However, after~~
- 25 ~~January 31, 2010, thirty-three thousandths of one percent~~
- 26 ~~(0.033%) of the collections shall be deposited into the industrial~~
- 27 ~~rail service fund established under IC 8-3-1.7-2.~~
- 28 **(5) (4) One hundred twenty-three thousandths of one percent**
- 29 **(0.123%) of the collections shall be deposited into the**
- 30 **commuter rail service fund established under IC 8-3-1.5-20.5.**
- 31 **However, after January 31, 2010, fourteen-hundredths of one**
- 32 **percent (0.14%) of the collections shall be deposited into the**
- 33 **commuter rail service fund established under IC 8-3-1.5-20.5."**
- 34 Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed February 20, 2008.)

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Senator DELPH